**2006**

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**SUPPLEMENTARY**

**EXPLANATORY STATEMENT**

**CIVIL LAW (PROPERTY) BILL 2005**

 **Circulated by the authority of**

###  Simon Corbell MLA

### Attorney General

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### GOVERNMENT AMENDMENT TO THE

### CIVIL LAW (PROPERTY) BILL 2005

**Supplementary Explanatory Statement**

This supplementary explanatory statement relates to Government amendments to consequential amendments in Schedule 1 at clauses 1.4, 1.5 and 1.8 in the Civil Law (Property) Bill 2005 as introduced into the ACT Legislative Assembly.

# Outline of Provisions

The Government amendments relocate section 62 of the *Law Reform (Miscellaneous Provisions) Act 1995* (to be repealed by the Civil Law (Property) Bill 2005) to new section 81 of the *Court Procedures Act 2004*. New section 81 empowers the Court to inquire into the truth of the matters set forth in a writ of habeas corpus when it is returned to the Court.

Notwithstanding that the new *Court Procedures Rules 2006* have dealt with the way in which a writ of habeas corpus is processed, it is appropriate to retain section 62 as principal legislation, in addition to the Rules, because of its historical and legal significance.

# Clause 1.4 Sections 80A to 82

This clause replaces clauses 1.4 and 1.5 of Schedule 1 of the Civil Law (Property) Bill 2005 with new clause 1.4. Clause 1.4 renumbers sections 80A to 82 as sections 81 to 83 of the *Court Procedures Act 2004* to facilitate the relocation of former section 62 of the *Law Reform (Miscellaneous Provisions) Act 1955* which is being repealed by this Bill.

# Clause 1.8 Section 62

This clause replaces clause 1.8 of Schedule 1 of the Civil Law (Property) Bill 2005 with new clause 1.8 which relocates section 62 of the *Law Reform (Miscellaneous Provisions) Act 1955* to new section 80A which will be renumbered as section 81 of the *Court Procedures Act 2004*.